

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

D.L.; K.S.F.; and K.B., by and through her
parent and next friend H.B.,

Plaintiffs,

v

MICHIGAN DEPARTMENT OF
EDUCATION,

Defendant.

Case No. 22-cv-00838-RJJ-PJG

Hon. ROBERT J. JONKER

Mag. PHILLIP J. GREEN

**STIPULATION AND ORDER
TO MODIFY THIRD CASE
MANAGEMENT ORDER**

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STIPULATION AND ORDER TO MODIFY THIRD CASE MANAGEMENT ORDER

The parties, by and through their respective counsel, stipulate to modify the current Case Management Order, as follows:

1. On March 29, 2024, the Court issued its second case management order, ECF No. 51, following a stipulation by the parties amending the case management order as follows:

Defendant's expert reports due	May 15, 2024
Rebuttal reports due	June 15, 2024
Written discovery closes	June 21, 2024
Depositions and expert discovery close	July 21, 2024
Mediation deadline and dispositive motions due	To be determined by the Court at June 24, 2024 status conference regarding their progress in discovery.

2. The Court rescheduled the June 24, 2024 status conference for August 15, 2024, ECF No. 56. After the August 15 status conference, the Court issued its third case management order, ECF No. 64, amending ECF No. 51, as follows:

Briefing on discovery issues articulated in the parties' August 14, 2024 Joint Status Report (ECF No. 61)	Opening briefs: August 29, 2024 Response briefs: September 12, 2024
Mediation deadline	September 4, 2024
Expert depositions discovery closes	November 2, 2024
Dispositive motions due	January 31, 2025

3. Fed. R. Civ. P. 16(b)(4) states that the Court's Scheduling Order "may be modified only for good cause and with the judge's consent."

4. The “overarching inquiry” when considering whether good cause exists to modify a discovery deadline is “whether the moving party was diligent in pursuing discovery.” *Bentowski v. Scene Mag.*, 637 F.3d 689, 696 (6th Cir. 2011) (citing *Dowling v Cleveland Clinic Found.*, 593 F.3d 472, 478 (6th Cir. 2010)).

5. During the August 15 status conference, the parties presented their respective views on the discovery issues articulated in their August 14, 2024 Joint Status Report, ECF No. 61, concerning an extension of the deposition deadline. Plaintiffs stated that newly discovered information justified an extension to allow depositions of Dr. Michael Rice and Scott Koenigsnecht. Defendant stated that a similar extension concerning its wish to depose plaintiff K.B. was reasonable, considering its previous efforts to secure that deposition. Both parties also presented a preview of its opposition to those respective extensions.

6. Since the status conference, the parties have stipulated to an extension of the deposition deadline that allows both parties to take one additional deposition.

7. The extension sought by the parties is reasonable, and the parties are working diligently to comply with Court deadlines. The parties have concluded written discovery, conducted several depositions, and have exchanged all expert reports.

8. The extension of time requested will not cause any undue hardship or prejudice to any party.

9. Good cause exists, as articulated by both parties at the August 15 status conference and as detailed above.

Upon stipulation of the parties, and the Court being otherwise advised in the premises;

IT IS HEREBY ORDERED that the third case management order, ECF No. 64, is amended as follows:

Depositions discovery deadline, allowing Defendant to depose Plaintiff K.B. only and allowing Plaintiffs to depose Scott Koenigsknecht only	September 15, 2024
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Dated: August 23, 2024

/s/ Robert J. Jonker
HON. ROBERT J. JONKER
United States District Court Judge

Respectfully submitted and stipulated as to form and content by:

/s/ Mitchell D. Sickon

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Dated: August 22, 2024